

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

LULA WILLIAMS, et al.,
on behalf of themselves
and all others similarly
situated,

Plaintiffs,

v.

Civil Action No. 3:17cv461

BIG PICTURE LOANS, LLC,
et al.,

Defendants.

ORDER

Having reviewed the submissions made by the defendants, Big Picture Loans, LLC, Ascension Technologies, LLC, James Williams, Jr., Gertrude McGeshick, Susan McGeshick, and Giiwegiizhiigookway Martin, respecting claims of privilege, it is hereby ORDERED that the claims of privilege are sustained, overruled, or modified as follows:

Tab 1: Sustained.

Tab 2: Sustained.

Tab 3: Overruled, except as to handwritten notes which, if they were made by counsel, may be redacted. The BPL's Collection Policy Audit Report(s) are not privileged merely because a lawyer conducted, or assisted in conducting, the audit.

Tab 4: Sustained; unless the subject of that opinion should hereafter become relevant with respect to questions of notice, an issue that is not presently before the Court.

Tab 5: Overruled because the messages relate not to legal advice but to financial matters.

Tab 6: Sustained, unless the subject of that opinion should hereafter become relevant with respect to questions of notice, an issue that is not presently before the Court.

Tab 7: Sustained, unless the subject of that opinion should hereafter become relevant with respect to questions of notice, an issue that is not presently before the Court.

Tab 8: Sustained, unless the subject of that opinion should hereafter become relevant with respect to questions of notice, an issue that is not presently before the Court.

Tabs 9-15: Sustained, unless the restructuring of tribal businesses or the name change should become an issue in the case, a question that is currently not before the Court.

Tabs 16-43: Overruled. First, there appears to be no legal advice (or request therefor) in the document. Second, as to this document and all like it, the BPL's policy audit reports (whether policy audits relating to Collections, Complaints, Vendors, OFAC, Fair Lending, Marketing, Information Security, Military Issues, Vendor Oversight, UDAPP, Underwriting, and FCRA) are not protected by attorney-client privilege even though a lawyer may have conducted,

or have been involved in the audit. If the marginal notes were made by counsel, they may be redacted.

Tab 44: Sustained.

Tab 45: Sustained.

Tab 46: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 47: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 48: Sustained.

Tab 49: Sustained.

Tab 50: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 51: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 52: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 53: Sustained.

Tab 54: Sustained.

Tab 55: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 56: Sustained.

Tab 57: Sustained.

Tab 58: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 59: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 60: Sustained.

Tab 61: Sustained.

Tab 62: Sustained, unless the restructuring of tribal business or name change should become an issue, a question that is not presently before the Court.

Tab 63: Sustained.

Tab 64: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 65: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 66: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tab 67: Overruled. There is no privileged content in the document.

Tab 68: Sustained.

Tab 69: Sustained.

Tab 70: Overruled because the communications were in connection with matters to be publicly disclosed. United States v. Under Seal, 33 F.3d 342, 354 (4th Cir. 1994).

Tab 71: Sustained, except as it may become hereafter relevant to the issue of notice, an issue that is not presently before the Court.

Tabs 72 and 74: Overruled. First, there appears to be no legal advice (or request therefor) in the document. Second, as to this document and all like it, the BPL's policy audit reports (whether Collections, Complaints, Vendors, OFAC, Fair Lending, Marketing, Information Security, Military Issues, Vendor Oversight, UDAPP, Underwriting and FCRA) are not protected by attorney-client privilege even though a lawyer may have conducted, or have been involved in the audit. If the marginal notes were made by counsel, they may be redacted.

Tab 74: Overruled because there is no request for legal advice in the substance of the document.

Documents as to which the claims of privilege have been overruled in whole or in part shall be produced to plaintiffs' counsel by January 20, 2018.

The Clerk is directed to maintain the tabbed notebook under seal (along with a copy of this ORDER as entered) so as to be available in the event of any appeal.

It is so ORDERED.

_____/s/ REP_____
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: January 12, 2018